



FREUND FREEZE & ARNOLD
A LEGAL PROFESSIONAL ASSOCIATION
www.ffalaw.com

Wayne E. Waite, Esq.
(937) 913-0107 Direct Dial
(937) 425-0207 Direct Fax
E-mail wwaite@ffalaw.com

Dayton Office

One Dayton Centre
1 South Main Street
Suite 1800
Dayton, OH 45402-2017
(937) 222-2424
Fax (937) 222-5369

Fourth & Walnut Centre
105 East Fourth Street
Suite 1400
Cincinnati, OH 45202-4035
(513) 665-3500
Fax (513) 665-3503

Capitol Square Office Building
65 East State Street
Suite 800
Columbus, OH 43215-4247
(614) 827-7300
Fax (614) 827-7303

January 5, 2005

**By Federal Express and
Fax: 202-219-3923**
Clerk of Commission
Complaints Examination
and Legal Administration
Federal Election Commission
Washington D.C. 20463

Re: *Rowena Ann Reno v.
Michael Turner and Turner for Congress*
MUR NO. 5591

Dear Clerk:

I am enclosing the Position Statement and Motion to
Dismiss of Michael Turner and Turner for Congress.

Please return a time-stamped copy in the enclosed mailing
envelope.

Very truly yours,

FREUND, FREEZE & ARNOLD

Wayne E. Waite

pjs
Enclosure

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2005 JAN -6 / A 11:34

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BEFORE THE FEDERAL ELECTION COMMISSION

ROWENA ANN RENO : MUR NO. 5591

Complainant :

vs. :

MICHAEL TURNER AND
TURNER FOR CONGRESS :

POSITION STATEMENT AND
MOTION TO DISMISS OF MICHAEL
TURNER AND TURNER FOR
CONGRESS

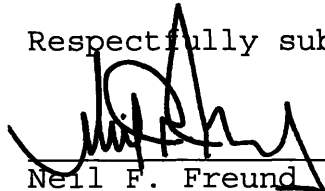
Respondents. :

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2005 JAN - 6
A 11:34

Respondents Michael Turner and Turner for Congress submit the following Position Statement and move for dismissal of the Complaint and closure of this case because there is no reason to believe Michael Turner and Turner for Congress have committed a violation of the law.

Respectfully submitted,



Neil F. Freund (0012183)
Wayne E. Waite (#0008352)
FREUND, FREEZE & ARNOLD
1800 One Dayton Centre
1 South Main Street
Dayton, Ohio 45402-2017
(937) 222-2424
(937) 222-5369 facsimile
adetmer@ffalaw.com
wwaite@ffalaw.com
Attorneys for Respondents

POSITION STATEMENT OF MICHAEL TURNER AND TURNER FOR CONGRESS

A. INTRODUCTION

It is alleged that Michael Turner and Turner for Congress ("Turner") failed to report alleged contributions, in kind or in cash, on Federal Election Commission ("FEC") Disclosure Form 3 with regard to the 2002 primary election, thus allegedly violating unspecified FEC Rules. See Complaint.

Three factors cast doubt upon the validity of this Complaint and the allegations contained in it: (1) the timing of the filing of the Complaint, (2) the major margin of victory in the election in question, and (3) the unsubstantiated innuendo upon which the Complaint is based that is negated herein by sworn facts.

This Complaint against Turner was filed on October 29, 2004, just days before the November 2004 general election. See Complaint. Michael R. Turner was a candidate in the November 2004 general election.

This Complaint relates solely to the May 7, 2002, Republican primary election, an election Turner won by a large margin. See Ohio Secretary of State return statistics found at <http://www.sos.state.oh.us/sos/results/2002/pri/rUSrep.htm>. Specifically, in the May 2002, Republican primary, Michael R. Turner was opposed by two candidates: Roy E. Brown ("Brown") and Gregory E. Hunter ("Hunter"). See return statistics. In that May 7, 2002, primary, Michael R. Turner received 46,952 votes with Brown and Hunter receiving only 8,346 votes and 3,702 votes, respectively. See return statistics. Michael R. Turner received almost 80% of the votes to the mere 20% shared by Brown and Hunter. See return statistics.

Further, these allegations of Complainant Rowena Ann Reno ("Complainant") are mere innuendo based solely upon reports appearing in the Dayton Daily News published August 1, 2004 and August 25, 2004 and Columbus Dispatch published August 25, 2004. See Complaint. Complainant admits no independent knowledge or

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substantiated source for such allegations in this complaint before the FEC. See Complaint.

Instead, based solely upon these newspaper articles, the Complaint alleges it to be Complainant's "understanding" that monies were paid to James S. Nathanson ("Nathanson") in December 2003 or January 2004 by the Montgomery County Republican Party for political consulting work done in prior years for the benefit of Turner as part of his effort with a Republican primary in which he was opposed by Roy Brown. See Complaint, ¶8. Complainant alleges the services allegedly paid for by the Montgomery County Republican Party were not disclosed by Turner. See Complaint, ¶10.

The sworn affidavits of James S. Nathanson ("Nathanson Affidavit") (attached hereto as Exhibit A) and Jeffrey Jacobson, former Chairman of the Montgomery County Republican Party ("Jacobson Affidavit") (attached hereto as Exhibit B) prove Complainant's "understanding" is incorrect, and there is no reason to believe a violation of federal election laws has been committed by Turner. Turner did not pay Nathanson to provide him any consulting services in the 2002 primary election campaign nor were any payments made by the Montgomery County Republican Party from its operating account to Nathanson to provide services for Turner's campaign in the 2002 primary election so to require any disclosure by Turner pursuant to FEC Rules. See Nathanson Affidavit, ¶¶1,2; Jacobson Affidavit, ¶¶4,5.

B. RESPONSE TO COMPLAINT ALLEGATIONS

Allegations 1 through 2:

1. The undersigned, Rowena Ann Reno, is a resident of Clinton County, Ohio, residing in the United States Congressional District represented by Respondent Michael Turner.

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2. "Turner for Congress" is the authorized committee of Michael Turner for purposes of obtaining and expending funds and specifically for the purpose of reporting receipts and disbursements obtained during the course of his campaign to be elected to Congress.

Response: Turner does not dispute these allegations. Turner for Congress accurately and properly reported receipts and disbursements obtained during the course of Michael Turner's campaign to be elected to Congress.

Allegations 3 through 9:

3. I am filing this Complaint with the Federal Election Commission because an investigation of this matter by the local Board of Elections is still not completed.
4. According to a report contained in the *Dayton Daily News*, published August 25, 2004 the Montgomery County Republican Party obtained contributions over an extended period of time, which were deposited in its "Operating Account" and then expended for the benefit of Republican candidates.
5. Money from the Montgomery County Republican Party Operating Account was used to pay James S. Nathanson, a Republican consultant and member of the Montgomery County Board of Elections, for political consulting work he did in the amount of \$76,400.
6. According to an article published in the *Columbus Dispatch* on August 25, 2004, the money was paid to Mr. Nathanson in December 2003 or January 2004, in payment for prior years of consulting undertaken by Nathanson for the benefit of specific Republican candidates for office.
7. According to an August 1, 2004 article in the *Dayton Daily News*, money paid to Mr. Nathanson out of the Montgomery County Republican operating fund was used to pay the consultant to assist "its

endorsed candidate" who in fact was Michael Turner.

8. It is my understanding based upon these admissions contained in the media, that Montgomery County Republican Party Operating Account was used to pay as much as \$76,400 to James Nathanson for work he did in support of candidate Michael Turner as part of his effort to with a Republican primary in which he was opposed by Roy Brown.
9. A letter was sent by Jeff Jacobson (who was chairman of the Montgomery County Republican Party at the time of the existence of the operating fund and at the time of the payments to James Nathanson) in which he admits payment of funds from the Operating Account as compensation to James Nathanson for work he provided to Michael Turner and the Turner for Congress Committee.

Response: **The Montgomery County Republican Party did not pay nor contract with Nathanson to work on the 2002 primary election campaign of Turner.**

James S. Nathanson & Associates was paid \$76,400 in December 2003 by the Montgomery County Republican Party from its operating account for services provided to the Montgomery County Republican Party from 2001 through 2003. See Jacobson Affidavit, ¶2. Nathanson assisted the Montgomery County Republican Party in strategic planning and oversight of the party's headquarters operations. The work Nathanson did for the Montgomery County Republican Party in the 2002 Primary Election was done solely at the request of the Montgomery County Republican Party and related exclusively to actions taken by the Montgomery County Republican Party. See Jacobson Affidavit, ¶3.

At no time did the Montgomery County Republican Party ever have any contract or agreement, express or implied, with Nathanson to provide services or to be paid for services in connections with Turner's campaign for congress in 2002. See Jacobson Affidavit, ¶4. No payments were made from the

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Montgomery County Republican Party Operating Account as compensation to Nathanson for work provided to Michael Turner or the Turner for Congress Committee. See Jacobson Affidavit, ¶5.

At no time did Nathanson ever have any contract or agreement, express or implied, with the Montgomery County Republican Party to provide services for Turner in connection with his primary election campaign against Roy Brown in 2002. See Nathanson Affidavit, ¶6. The work performed by Nathanson for which he was paid by the Montgomery County Republican Party in the 2002 Primary Election was done solely at the request of the Montgomery County Republican Party and related exclusively to actions taken by the Montgomery County Republican Party. See Nathanson Affidavit, ¶7.

Allegations 10 through 13:

10. That based upon the admissions contained in the media and letter, it is clear that Mr. Nathanson provided in-kind services to Turner for Congress, as subsequently paid for out of the Operating Account of the Montgomery County Republican Party, triggering a duty of "Turner for Congress" and Michael Turner to report contributions, in kind or in cash, on FEC Disclosure Form 3 filed with respect to the primary election in 2002.
11. Each FEC Disclosure Form 3 filed by Turner for Congress and Michael Turner with the Federal Elections Commission on April 25, 2002, July 15, 2002, and January 22, 2003 contained no disclosure whatsoever of any in-kind or cash contribution provided by James S. Nathanson or by the Montgomery County Republican Party.
12. The failure to report the in kind or cash benefits resulting from the services of James S. Nathanson is a violation of FEC Rules.
13. The acceptance of contributions from the Operating Account of the Montgomery County Republican party is a violation of FEC Rules. The Montgomery County Republican Party is not a Federal Political Action Committee, and it is not otherwise qualified (in part due to the fact that it gathers contributions

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from corporate donors) to make contributions to the Turner for Congress committee or to Michael Turner.

Response: Nathanson was not paid by anyone to provide consulting services to Turner in the 2002 Primary Election Campaign for which there was a duty of Turner to disclose or report. Turner for Congress, thus, accurately and properly reported contributions on its April 25, 2002, July 15, 2002, and January 22, 2003 FEC Disclosure Forms, and no reason to believe any violation of FEC Rules exists.

Nathanson was never paid to provide consulting services to Turner in the 2002 Primary Election Campaign against Roy Brown. See Nathanson Affidavit, ¶1. Nathanson was never asked by Turner to provide services for which he would receive compensation with regard to his 2002 Primary Election campaign. See Nathanson Affidavit, ¶2. Nathanson never made any cash donations to Turner for the Primary Election Campaign against Roy Brown in 2002. See Nathanson Affidavit, ¶3.

Nathanson was hired by Turner only to provide consulting services for the 2002 General Election Campaign and the 2004 Primary and General Election Campaigns, but resigned this position in July 2003. See Nathanson Affidavit, ¶4. Nathanson provided consulting services and was paid \$30,000 by Turner for Congress exclusively for his work and efforts for the 2002 General Election Campaign, all of which was properly reported and disclosed. See Nathanson Affidavit, ¶5; see also 2002 General Election Disclosure (attached hereto as Exhibit C.)

Allegations 14 through 15:

14. I have attempted to allege specific facts showing violations occurring under the Federal Election Commission's jurisdiction, have attempted to clearly identify each person that has committed a

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violation, have attached all documentation available to me to support the allegations and have also identified the source of information upon which I base my Complaint.

15. I request that the Federal Election Commission notify Respondent of the Complaint and proceed to investigate and reach conclusions with respect to the existence of these alleged violations.

Response: The allegations of Complainant are unsupported based upon the sworn affidavits and information provided herein in response. There is no reason to believe any violation was committed by Turner and no basis for continuing investigation. This case should be closed.

C. CONCLUSION

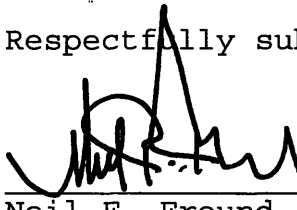
Michael Turner and Turner for Congress properly reported and disclosed 2002 Primary Election Campaign contributions. Turner did not pay or hire Nathanson to provide consulting services nor were any funds provided by Turner to Nathanson in connection with the 2002 Primary Election Campaign. Finally, any and all work performed by Nathanson for the 2002 primary election was paid for by the Montgomery County Republican Party and was performed exclusively for the Montgomery County Republican Party, not for the Election Campaign of Michael Turner or Turner for Congress.

These sworn facts negate any reason to believe finding that Turner violated any FEC Rules for not reporting or disclosing campaign contributions. Accordingly, there is no reason to believe unsupported innuendo from newspaper articles upon which this complaint, filed just days before the November 2004 general election and relating solely to a 2002 primary which Turner won by a major margin, is based.

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For all these reasons, this case should be dismissed as there is no basis to believe Michael Turner or Michael Turner for Congress violated the law.

Respectfully submitted,



Neil F. Freund (0012183)
Wayne E. Weite (#0008352)
FREUND, FREEZE & ARNOLD
1800 One Dayton Centre
1 South Main Street
Dayton, Ohio 45402-2017
(937) 222-2424
(937) 222-5369 facsimile
adetmer@ffalaw.com
wwaite@ffalaw.com
Attorneys for Respondents

BEFORE THE FEDERAL ELECTION COMMISSION

ROWENA ANN RENO

: MUR NO. 5591

Complainant

:

vs.

:

MICHAEL TURNER AND
TURNER FOR CONGRESS

:

AFFIDAVIT OF JAMES S.
NATHANSON

:

Respondents.

:

STATE OF OHIO

)

)

ss:

COUNTY OF MONTGOMERY)

Now comes James S. Nathanson, after being duly cautioned and sworn, states that the following is true to the best of his knowledge:

1. I was never paid to provide consulting services to Michael Turner or Turner for Congress in the 2002 Primary Election Campaign against Roy Brown.
2. I was never asked by Michael Turner or Turner for Congress to provide services for which I would receive compensation with regard to his 2002 Primary Election Campaign.
3. I have never made any cash donations to Michael Turner or Turner for Congress for the Primary Election Campaign against Roy Brown in 2002.
4. I was hired by Michael Turner and Turner for Congress only to provide consulting services for the 2002 General Election Campaign and the 2004 Primary and General Election Campaigns. I resigned this position in July 2003.
5. I provided consulting services and was paid \$30,000 by Turner for Congress exclusively for my work and efforts for the 2002 General Election Campaign.
6. I never had any contract or agreement, express or implied, with the Montgomery County Republican Party to provide services for Michael Turner in connection with his primary election campaign against Roy Brown in 2002.

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FEB/04 800-631-6989

EXHIBIT

A

7. The work I did for the Montgomery County Republican Party in the 2002 Primary Election was done solely at the request of the Montgomery County Republican Party and related exclusively to actions taken by the Montgomery County Republican Party.

Further Affiant sayeth naught.



James S. Nathanson

Sworn to and subscribed in my presence by said James S. Nathanson this 20 day of December, 2004.



Notary Public

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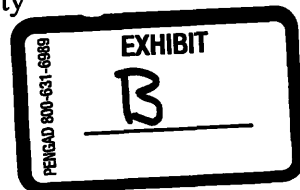
BEFORE THE FEDERAL ELECTION COMMISSION

ROWENA ANN RENO : MUR NO. 5591
Complainant :
vs. :
MICHAEL TURNER AND : AFFIDAVIT OF JEFF
TURNER FOR CONGRESS : JACOBSON
Respondents. :
:

STATE OF OHIO)
) ss:
COUNTY OF MONTGOMERY)

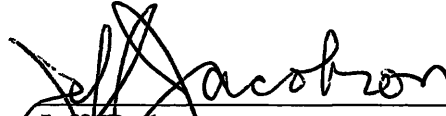
Now comes Jeff Jacobson, after being duly cautioned and sworn, states that the following is true to the best of his knowledge:

1. From March 26, 1991 through December 31, 2003, I served as Chairman of the Montgomery County Republican Party. In this capacity, I was involved in all decisions regarding expenditures made by the Montgomery County Republican Party, including expenditures from its operating account. In this capacity, I was also involved in all decisions regarding the political services provided by the Montgomery County Republican Party.
2. James S. Nathanson & Associates was paid \$76,400 in December 2003 by the Montgomery County Republican Party from its operating account for services provided to the Montgomery County Republican Party from 2001 through 2003.
3. The work James S. Nathanson did for the Montgomery County Republican Party in the 2002 Primary Election was done solely at the request of the Montgomery County Republican Party and related exclusively to actions taken by the Montgomery County Republican Party.
4. At no time did the Montgomery County Republican Party ever have any contract or agreement, express or implied, with James Nathanson to provide services or to be paid for services in connection with the Michael Turner's Campaign for Congress in 2002.
5. No payments were made from the Montgomery County Republican Party



Operating Account as compensation to James Nathanson for work provided to Michael Turner or the Turner for Congress Committee.

Further Affiant sayeth naught.


Jeff Jacobson

Sworn to and subscribed in my presence by said Jeffrey Jacobson this 21st day of December, 2004.


Notary Public

PATRICIA A. METZGER, Notary Public
In and for the State of Ohio
My Commission Expires April 29, 2009

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2002 General

\$4,145.14	Kohler Foods	27-Oct-02	Reception Expenses
\$500.00	KLP3 Enterprises	10-Jul-02	Rent
\$500.00	KLP3 Enterprises	29-Jul-02	Rent
\$500.00	KLP3 Enterprises	6-Sep-02	Rent
\$500.00	KLP3 Enterprises	25-Sep-02	Rent
\$500.00	KLP3 Enterprises	18-Nov-02	Rent
\$193.66	Kinkos	7-Aug-02	Posters
\$440.50	Kettering Medical Center	9-Oct-02	Reception Expenses
\$20,000.00	JSN & Associates	6-Sep-02	Political Consulting
\$10,000.00	JSN & Associates	23-Oct-02	Political Consulting
\$2,425.40	JSN & Associates	8-Jul-02	Conference Calls/Shipping
\$1,031.63	JSN & Associates	21-Nov-02	Shipping and Copies
\$1,031.63	JSN & Associates	19-May-03	Shipping and Copies
\$34,488.66			
\$5,538.46	John Shaw	5-Nov-02	Bonus
\$2,769.23	John Shaw	4-Dec-02	Bonus
\$2,769.23	John Shaw	20-Dec-02	Bonus
\$2,232.82	John Shaw	6-Sep-02	Travel Expenses
\$2,164.27	John Shaw	10-Jun-02	Payroll
\$2,164.27	John Shaw	21-Jun-02	Payroll
\$2,164.27	John Shaw	8-Jul-02	Payroll
\$2,164.27	John Shaw	22-Jul-02	Payroll
\$2,164.27	John Shaw	1-Aug-02	payroll
\$2,164.27	John Shaw	15-Aug-02	Payroll
\$2,164.27	John Shaw	30-Aug-02	Payroll
\$2,164.27	John Shaw	13-Sep-02	Payroll
\$2,164.27	John Shaw	27-Sep-02	Payroll
\$2,164.27	John Shaw	11-Oct-02	Payroll
\$2,164.27	John Shaw	25-Oct-02	Payroll
\$2,164.27	John Shaw	8-Nov-02	Payroll
\$2,164.27	John Shaw	22-Nov-02	Payroll
\$2,072.43	John Shaw	20-May-02	Travel Expenses
\$919.65	John Shaw	29-Jul-02	Travel Expenses
\$627.41	John Shaw	18-Oct-02	Fundraising Reception Expenses
\$627.41	John Shaw	3-Dec-02	Fundraising Expenses
\$370.00	John Shaw	30-Oct-02	Postage
\$153.00	John Shaw	27-Sep-02	travel expense reimbursement
\$19.11	John Shaw	7-Oct-02	Copies
\$46,234.26			
\$1,846.16	Jennifer Taylor	5-Nov-02	Bonus
\$923.08	Jennifer Taylor	4-Dec-02	Bonus
\$923.08	Jennifer Taylor	20-Dec-02	Bonus
\$745.95	Jennifer Taylor	6-Jun-02	Payroll
\$745.95	Jennifer Taylor	21-Jun-02	Payroll
\$745.95	Jennifer Taylor	5-Jul-02	Payroll
\$745.95	Jennifer Taylor	18-Jul-02	Payroll
\$745.95	Jennifer Taylor	1-Aug-02	Payroll
\$745.95	Jennifer Taylor	15-Aug-02	Payroll
\$745.95	Jennifer Taylor	29-Aug-02	Payroll
\$745.95	Jennifer Taylor	13-Sep-02	Payroll
\$745.95	Jennifer Taylor	27-Sep-02	Payroll
\$745.95	Jennifer Taylor	11-Oct-02	Payroll